

**ORIGINAL**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 01-138

Application by Verizon Pennsylvania )  
Inc., Verizon Long Distance, Verizon )  
Enterprise Solutions, Verizon Global )  
Networks Inc., and Verizon Select )  
Services Inc., for Authorization To )  
Provide In-Region, InterLATA Services )  
in Pennsylvania )

**COMMENTS OF  
Z-TEL COMMUNICATIONS, INC.**

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Dated: July 11, 2001

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**COMMENTS OF  
Z-TEL COMMUNICATIONS, INC.**

Z-Tel Communications, Inc. (“Z-Tel”), by its attorneys, hereby submits its comments in response to the Federal Communication Commission’s (“FCC” or “Commission”) Public Notice (DA 01-1486) in the above-captioned proceeding. The Public Notice invites interested parties to respond to the Application of Verizon Pennsylvania Inc. et al. (collectively “Verizon”) to provide in-region, interLATA services in the Commonwealth of Pennsylvania, pursuant to section 271 of the Communications Act of 1934, as amended (“Act”).

**I. INTRODUCTION AND SUMMARY**

Z-Tel is a Tampa, Florida-based competitive local exchange carrier (“CLEC”) that offers bundled packages of local, long distance, and enhanced services to residential customers using the combination of unbundled network elements (“UNEs”) known as the UNE Platform, or “UNE-P.” At present, Z-Tel provides integrated local, long distance, and enhanced services to over 300,000 residential consumers in 34 states, including the Commonwealth of Pennsylvania.

By these comments, Z-Tel opposes Verizon’s Application for section 271 relief in Pennsylvania because Verizon has failed and continues to fail to satisfy competitive checklist

item two, which requires Verizon to provide nondiscriminatory access to unbundled network elements (“UNEs”).<sup>1</sup> Specifically, Verizon lacks the ability to render accurate billing information to CLECs in Pennsylvania, and therefore Verizon has not and is not providing CLECs with nondiscriminatory access to the operations support system (“OSS”) UNE. Thus, Verizon has failed to satisfy checklist item two, and the Commission must reject Verizon’s Application.

Verizon’s failure to take the steps necessary to render an accurate bill in Pennsylvania is nothing short of ridiculous. Verizon clearly has the know-how needed to transmit accurate bills to competitors, as evidenced by the fact that the billing problems in Pennsylvania do not exist in either Massachusetts or New York. Indeed, the two Pennsylvania Commissioners that dissented at the state level identified Verizon’s inability to generate accurate bills as their primary concern.<sup>2</sup> Verizon states that it is working to fix its billing problems, and will continue to institute software updates to correct known billing errors. The Commission has held, however, that “promises of *future* performance to address particular concerns ... have no probative value.”<sup>3</sup> Indeed, Z-Tel has serious concerns as to whether Verizon would continue its

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<sup>1</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>2</sup> *See Consultative Report on Application of Verizon Pennsylvania, Inc. for FCC Authorization to Provide In-Region Inter-LATA Service in Pennsylvania*, PA Docket No. M-00001435, Dissenting Statement of Commissioner Nora Mead Brownell (rel. June 6, 2001 (“regarding electronic billing – Verizon must implement adjustments to its electronic billing systems to insure that CLECs are able to obtain timely and accurate bills”). *See also Consultative Report on Application of Verizon Pennsylvania, Inc. for FCC Authorization to Provide In-Region Inter-LATA Service in Pennsylvania*, PA Docket No. M-00001435, Statement of Commissioner Terrance J. Fitzpatrick Concurring in Part and Dissenting in Part (rel. June 6, 2001) (“Because of the lack of timely and accurate electronic bills, I find that Verizon has not satisfied checklist item no. 2.”).

<sup>3</sup> *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum Opinion and Order, 12 FCC Rcd 20543, ¶ 55 (1997)(emphasis original).

efforts to correct identified and unidentified billing problems were the Commission to grant this Application.

Verizon clearly wants section 271 relief in Pennsylvania, and Z-Tel has no doubt that Verizon has the ability to perform all of the operational steps necessary to satisfy the competitive checklist. At a minimum, the Commission should require Verizon to render bills to CLECs in Pennsylvania that are equal in quality and accuracy to those in Massachusetts and New York. To date, Verizon has not done so, and the Commission should therefore reject Verizon's application.

## **II. VERIZON'S APPLICATION FAILS TO SATISFY CHECKLIST ITEM TWO BECAUSE VERIZON HAS NEVER RENDERED AN ACCURATE BILL TO COMPETITORS**

Section 271(c)(2)(B)(ii) requires a BOC to provide "nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)."<sup>4</sup> The Commission "has determined that access to OSS functions falls squarely within an incumbent LEC's duty under section 251(c)(3) to provide unbundled network elements under terms and conditions that are nondiscriminatory and just and reasonable."<sup>5</sup> Thus, in order to demonstrate compliance with the competitive checklist, a BOC must show that it is providing just, reasonable, and nondiscriminatory access to OSS, including the billing component of the OSS UNE. Verizon has failed to do so because its billing system simply does not work. Thus, the Commission should reject Verizon's application.

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<sup>4</sup> 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>5</sup> *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404, ¶ 84 (rel. Dec. 22, 1999) ("New York 271 Order").

**A. The Commission Has a Well-Defined Standard for Reviewing BOC OSS Compliance, Including the Billing Component of OSS**

In analyzing whether a BOC is providing adequate OSS access, the Commission analyzes each of the primary OSS functions – pre-ordering, ordering, provisioning, maintenance and repair, and billing – through a two-part inquiry. “First, [the Commission] determine[s] whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions.... [The Commission] next assess[es] whether the OSS functions that the BOC has deployed are operationally ready as a practical matter.”<sup>6</sup>

Specific to the billing component of OSS, a BOC must demonstrate that it provides “competing carriers with complete and accurate reports on the service usage of competing carriers’ customers in substantially the same time and manner that it provides such information to itself, and a wholesale bill in a manner that gives competing carriers a meaningful opportunity to compete.”<sup>7</sup> In making such an inquiry, the Commission evaluates a BOC’s billing

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<sup>6</sup> *Id.*, ¶ 88 (emphasis added) (citations omitted) (internal quotations omitted).

<sup>7</sup> *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9, Memorandum Opinion and Order, FCC 01-130, ¶ 97 (rel. Apr. 16, 2001) (“Massachusetts 271 Order”). *See also*, *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance, Pursuant to Section 271 of the Telecommunications Act of 1996, to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, FCC 00-238, ¶ 210 (rel. June 30, 2000) (“Texas 271 Order”) and *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order, FCC 01-29, ¶ 163 (rel. Jan. 22, 2001) (“Kansas/Oklahoma 271 Order”).

processes and systems and billing performance metrics.<sup>8</sup> The Commission also has looked at whether billing issues presented are competitively significant.<sup>9</sup> Verizon's Application fails on all of these counts.

**B. Verizon Has Failed to Satisfy the Commission's Well-Defined Standard for the OSS Billing Component**

As demonstrated below, Verizon's (1) billing processes and systems are inadequate; (2) billing performance metrics are inadequate; and (3) billing problems have created significant competitive issues for Z-Tel. As such, the Commission should reject Verizon's Application.

**1. Verizon's billing processes and systems are inadequate**

At the outset, Z-Tel notes that the Commission never has reviewed the type of billing system that Verizon uses in Pennsylvania. In certain previous applications, the Commission has been able to rely on the BOC's use of the same wholesale billing system across states to demonstrate checklist compliance.<sup>10</sup> This does not hold true for the present Application because Verizon uses a different billing system in Pennsylvania than it uses in Massachusetts and New York.<sup>11</sup> Indeed, quite to the contrary, Verizon's ability to render proper bills in

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<sup>8</sup> *Id.*

<sup>9</sup> Massachusetts 271 Order, ¶ 98 (noting that exceptions related to billing issues were not "competitively significant").

<sup>10</sup> Kansas/Oklahoma 271 Order, ¶ 163 ("SWBT explains that it provides competing carriers with billing information [in Kansas and Oklahoma] ... using the same processes and systems as it uses in Texas.").

<sup>11</sup> *See Application by Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, p. 56. (Filed June 21, 2001) ("Verizon Application"). Here, Verizon notes that it "provides access to its underlying OSS in Pennsylvania using the same interfaces for pre-ordering, ordering, and maintenance and repair as it provides in Massachusetts and New

Massachusetts and New York highlights that Verizon has the ability – but perhaps not the willingness – to take the steps necessary to provide timely and accurate billing information in Pennsylvania.

Z-Tel has been providing UNE-P-based residential service in Pennsylvania since May 2000. Over that time period, Verizon has never once rendered an accurate bill – in either paper or electronic format – to Z-Tel.<sup>12</sup> In its brief Verizon makes four assertions in support of its obviously inadequate billing system:

1. KPMG found that the paper bill provided by Verizon for 110 pseudo accounts wasn't inaccurate;
2. Verizon now provides CLECs the option of receiving an electronic bill using "the latest industry standard";
3. Verizon has "addressed concerns" that the paper and electronic do not match; and
4. PricewaterhouseCoopers "attests" that the manual adjustments to the electronic bill provided to a subset of CLECs was within two percent of the paper bill total.<sup>13</sup>

As is the case all too often, the real performance story is found in what Verizon doesn't say.

**Verizon's paper bill is always wrong.** Verizon's paper bill is not accurate nor has it ever been accurate in Z-Tel's real-world experience.<sup>14</sup> Verizon asserts numerous times that KPMG was satisfied with Verizon's paper bill; however, as Verizon's witness Geller noted during the Pennsylvania *en banc* proceeding on April 25, 2001, "KPMG is not a normal CLEC

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York." Verizon expressly omits billing functionality because it utilizes a different billing system in Pennsylvania than it uses in Massachusetts and New York.

<sup>12</sup> Declaration of Margaret D. Rubino ("Rubino Declaration"), ¶ 3, attached hereto at *Tab A*.

<sup>13</sup> Verizon Application, p. 66.

<sup>14</sup> Rubino Declaration, ¶ 4.



as we know. They were a third-party company that was used to attest to the OSS processes within Verizon.”<sup>15</sup> This is of course the reason the Commission has stated that it will give more probative weight to operational experience than to the “attestation” type reports that come from non-commercial testing done by accountants that are not actually engaged in the business that they are auditing.<sup>16</sup>

As the Commission has repeatedly stated, “the most probative evidence that OSS functions are operationally ready is actual commercial usage.”<sup>17</sup> Only in cases where actual commercial usage does not exist will “the Commission ... consider the results of carrier-to-carrier testing, independent third-party testing, and internal testing in assessing the commercial readiness of a BOC’s OSS.”<sup>18</sup> KPMG’s attestation to the paper bill is flatly inconsistent with the operational experience of numerous carriers, including AT&T, WorldCom, and Z-Tel.<sup>19</sup> Indeed, Z-Tel’s cursory review of Verizon’s paper bill identified a wide range of errors, including incorrect universal service order codes (“USOCs”), incorrect usage rates, incorrect billing of taxes, and incorrect billing of interexchange carrier charges.<sup>20</sup> Verizon’s witness during the state proceedings actually admitted on the record that Z-Tel had identified numerous errors in Verizon’s paper bill.<sup>21</sup> In addition, Z-Tel recovered from Verizon 100% of the charges that Z-

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<sup>15</sup> *Consultative Report on Application of Verizon Pennsylvania Inc. for FCC Authorization to Provide In-Region, InterLATA Service in Pennsylvania, Initial En Banc Hearing*, Docket No. M-00001435, p. 109, (April 25, 2001).

<sup>16</sup> *See e.g., Second BellSouth Louisiana Order*, 13 FCC Rcd at 20655; *BellSouth South Carolina Order*, 13 FCC Rcd at 593; *Ameritech Michigan Order*, 12 FCC Rcd at 20618.

<sup>17</sup> *See New York 271 Order*, ¶ 89.

<sup>18</sup> *Id.*

<sup>19</sup> Rubino Declaration, ¶¶ 11-12.

<sup>20</sup> Rubino Declaration, ¶ 12.

<sup>21</sup> *Id.*

Tel disputed on Verizon's paper bills from May 2000 through December 2000. To date, Verizon has refused to respond to paper bill charges disputed by Z-Tel over the period from January 2001 through April 2001. It seems unlikely to Z-Tel that Verizon would issue credits for 100% of the paper bill charges disputed by Z-Tel if in fact Verizon's paper bill was accurate.

**Verizon's electronic bill is always wrong.** The electronic bill that Z-Tel and others receive is not generated electronically. Rather, the electronic output is manually-manipulated because Verizon's electronic billing system does not work properly.<sup>22</sup> As Verizon admits in the McLean Affidavit, in April 2001 "Verizon instituted a manual review and adjustment process" to its electronic bill to ensure that it "balances internally and that it matches the paper bill of record, which KPMG found to be accurate, before it is released to the CLEC."<sup>23</sup> Although the electronic bill may "balance" after manual review, it is still incorrect. For example, in spite of Verizon's manual adjustments, myriad USOCs continue routinely to appear on the electronic bill that Z-Tel receives from Verizon.<sup>24</sup>

**In spite of multiple software changes, Verizon's electronic bill is still always wrong.** Although Verizon has been and continues to "address concerns" about its electronic bill, Verizon's electronic bills still are always wrong.<sup>25</sup> As noted in the McLean affidavit, "[f]ixes introduced in March, April, May, and June have substantially improved the BOS BDT."<sup>26</sup> Of course, this means that: (1) the March "fixes" did not cure identified billing inaccuracies; (2) the

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<sup>22</sup> Rubino Declaration, ¶ 4.

<sup>23</sup> McLean Affidavit, ¶ 135.

<sup>24</sup> Rubino Declaration, ¶ 6. A sample list of the incorrect USOCs is appended to the Rubino Declaration as *Attachment B*.

<sup>25</sup> Rubino Declaration, ¶ 4.

<sup>26</sup> McLean Affidavit at ¶ 135.

April “fixes” did not cure identified billing inaccuracies; and (3) the May “fixes” did not cure identified billing inaccuracies. No one will know whether the June “fixes” have worked at least until sometime after Verizon renders a June bill, which Z-Tel has not yet received. Of course, if Verizon actually thought the June “fixes” would cure existing problems, it is unclear why Verizon would not have waited for a clean bill run before filing its Pennsylvania Application with the Commission. Indeed, Verizon admits that myriad problems with its electronic bill “cannot be explained by known conditions.”<sup>27</sup> Thus, it appears that Verizon expects to institute additional “fixes” in the immediate future.

**PricewaterhouseCoopers only reviewed what Verizon gave them – manually-manipulated bills for a subset of CLECs operating in Pennsylvania.**

PricewaterhouseCoopers received an electronic bill for a limited number of CLECs that Verizon manually manipulated before delivery to PricewaterhouseCoopers. PricewaterhouseCoopers cursory review merely confirmed that the manually adjusted totals on the electronic bills match the totals on the paper bill within two percent (2%). This “attestation” is flatly wrong. On July 11, 2001 – the due date for comments in this proceeding, Verizon informed Z-Tel that its electronic bill was out of balance by more than five percent (5%).<sup>28</sup> Aside from being flatly wrong, there is no indication that PricewaterhouseCoopers reviewed account-level or USOC-level detail.<sup>29</sup> At bottom, even though the totals may match after manual manipulation, the bills are just plain wrong for a variety of known and unknown reasons. Again, operational experience should prevail over an accountant’s “attestation.”

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<sup>27</sup> McLean Affidavit, ¶ 138.

<sup>28</sup> Rubino Declaration, ¶ 7.

<sup>29</sup> Rubino Declaration, ¶ 8 and n.4.

## **2. Verizon's Billing Performance Metrics Are Inadequate**

The Pennsylvania Carrier-to-Carrier performance metrics are insufficient to capture billing problems. This fact becomes obvious through comparing Verizon's metric performance for billing during 2000, over which time even Verizon admits that its paper bill was inaccurate. In spite of ongoing paper billing problems throughout 2000, Verizon's metric performance for billing was superlative. Verizon has never paid a single dollar for missing a billing metric under its Pennsylvania Performance Assurance Plan.

Fundamentally, a substantial lag time exists from the time a bill is rendered to the time a billing dispute is instituted and resolved. Z-Tel notes that Verizon issued Z-Tel a credit for 100% of charges disputed by Z-Tel over the eight month period from May 2000 through December 2000. This 100% credit was for a substantial dollar figure that, to Z-Tel's knowledge, Verizon has never reflected in any performance report.<sup>30</sup> This is because adjustments for billing errors occur months after the actual billing error occurs, and therefore months after Verizon has reported its metric for the month in which the error occurred. By the time a carrier actually receives a credit, Verizon has long since closed the metric reporting cycle.

This lag effect also encourages Verizon to slow roll the billing dispute resolution process. For example, although Z-Tel obtained a 100% credit for charges disputed during 2000, Verizon has refused to address any of Z-Tel's 2001 billing disputes. Z-Tel notes that it presently has substantial outstanding billing disputes with Verizon from January 1, 2001 to the present.<sup>31</sup> If Verizon refuses to address billing disputes with CLECs, there is absolutely no way for the data to show up in performance reports.

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<sup>30</sup> Rubino Declaration, ¶ 17.

### **3. Verizon's Billing Problems Have Created Significant Competitive Issues for Z-Tel**

In the Texas Order, the Commission noted that billing issues “can cause direct financial harm to competing carriers.”<sup>32</sup> Verizon’s billing problems are “competitively significant”<sup>33</sup> for Z-Tel. Foremost, because of time it takes to audit a bill and document a dispute, Z-Tel pays Verizon the full amount owed, and then has to pursue Verizon in order to get credits back from Verizon for improperly billed charges. Because of Verizon’s overcharges, Z-Tel consistently is forced to dispute about 20% of its Verizon Pennsylvania bill. In comparison, Z-Tel disputes only two-to-three percent of its bill in states such as Massachusetts, New York, and Texas. At a time where every dollar counts for CLECs, paying substantial overcharges to Verizon and then fighting Verizon for subsequent credits creates a significant competitive issue for Z-Tel.

Moreover, because of the systemic problems with Verizon’s billing system in Pennsylvania, Z-Tel is forced to devote one full time equivalent week per month to its reconciliation of the Verizon Pennsylvania bill.<sup>34</sup> By contrast, for Massachusetts, New York, and Texas, Z-Tel expends no more than two days per month per state on bill reconciliation.<sup>35</sup> Thus, the overcharges that result from Verizon’s billing problems cause an unnecessary financial and personnel drain on Z-Tel.

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<sup>31</sup> *Id.*

<sup>32</sup> Texas 271 Order, ¶ 211.

<sup>33</sup> Massachusetts 271 Order, ¶ 98.

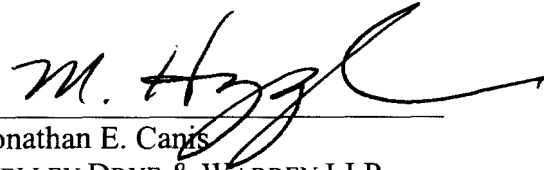
<sup>34</sup> Rubino Declaration, ¶ 8.

<sup>35</sup> *Id.*

### III. CONCLUSION

Consistent with the foregoing, the Commission should reject Verizon's Application.

Respectfully submitted,



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COUNSEL TO Z-TEL COMMUNICATIONS, INC.

Dated: July 11, 2001



# **ATTACHMENT 1**



Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of

Application by Verizon Pennsylvania	)	
Inc., Verizon Long Distance, Verizon	)	
Enterprise Solutions, Verizon Global	)	
Networks Inc., and Verizon Select	)	CC Docket No. 01-138
Services Inc., for Authorization to	)	
Provide In-Region, InterLATA Services	)	
In Pennsylvania	)	

DECLARATION OF MARGARET D. RUBINO  
ON BEHALF OF  
Z-TEL COMMUNICATIONS, INC.

DECLARATION OF MARGARET D. RUBINO:

1. My name is Margaret D. Rubino. My business address is 601 South Harbour Island Boulevard, Suite 220, Tampa, Florida, 33602. I am employed by Z-Tel Communications, Inc. as a Regional Vice President – Industry Policy. In that role, I am responsible for managing all aspects of Z-Tel’s wholesale relationship with Verizon.

2. Prior to my current position, I worked for the New York State Department of Public Service in the Communications Division for approximately ten years. I have a Bachelor of Science in Mechanical Engineering from Tufts University.

I. Purpose of Declaration

3. The purpose of this declaration is to describe the problems that Z-Tel has had with the wholesale bills sent by Verizon for the state of Pennsylvania, and the impact that those problems have had on our ability to operate effectively in Pennsylvania.

4. Z-Tel began providing service to residential customers in Pennsylvania in May, 2000. Since that time, Verizon has never rendered an accurate wholesale bill to Z-Tel in either paper or electronic format. In recent months, Verizon has taken steps to improve the accuracy of the bills, the most recent of which occurred on June 16.

However, Z-Tel has not yet received a bill that reflects the June 16 changes. A review of Z-Tel's most recent wholesale bill for Pennsylvania revealed inaccuracies that are orders of magnitude greater than those that Z-Tel identifies on its New York and Massachusetts wholesale bills.

## II. Verizon Continues to Send Z-Tel Inaccurate Wholesale Bills

5. Verizon generates a wholesale bill for Z-Tel on the 28<sup>th</sup> of each month in Pennsylvania. Z-Tel received its April 28<sup>th</sup> bill on June 2, 2001, and its May 28<sup>th</sup> bill on June 26, 2001. Neither of these bills reflects all of the changes that Verizon has made to its electronic billing system, since Verizon was still making changes on June 16, and in fact intends to make additional changes in July and August.<sup>1</sup> Unfortunately, the bills that Z-Tel has been able to audit to-date still contain a number of errors, as evidenced by the Verizon letters attached to this declaration as *Attachment A*.

6. Attached to this declaration as *Attachment B* is a sample of incorrect universal service order codes ("USOCs") that were shown on Z-Tel's May billing output specification/bill data tape ("BOS/BDT") bills. These USOCs do not represent charges for unbundled network elements. Although Z-Tel has not researched the origin of each of the USOCs, they appear to be either retail or resale charges. These USOCs appear as both charges and credits, but the amounts of the charges rarely equal the amounts of the credits, so Z-Tel cannot merely ignore these extraneous items. The incorrect USOCs shown on the bill represent the bulk of the monthly billing disputes.

7. On July 11, 2001, Verizon notified Z-Tel that its April 28 and May 28 BOS/BDT bills contained changes, on the order of 5% of the total bill, identified as "Resale/Retail Usage."<sup>2</sup> Verizon's letter indicated that Z-Tel did not have to pay this portion of the bill while Verizon investigated the charges, and that Verizon would notify Z-Tel of the outcome of its investigation. According to the McLean Declaration, Verizon has system changes scheduled for July and August that should address this specific problem, and there is "no harm to the CLECs" because the CLECs do not have to pay

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<sup>1</sup>McLean/Wierzbicki/Webster Declaration, para. 152.

<sup>2</sup> See letters dated July 11, 2001, shown in *Attachment A*.

until Verizon determines that the charge was appropriate.<sup>3</sup> Z-Tel appreciates the fact that Verizon does not expect payment of these charges while Verizon's investigation is pending. However, the fact that the ultimate cost of goods sold may not be known for several months injects a level of uncertainty that CLECs should not be required to tolerate. It is not likely that Verizon would send such a letter to its large retail customers.

8. Z-Tel continues to dispute a far greater portion of its Pennsylvania bill than it does for New York, Massachusetts, and Texas. In all of those states, Z-Tel disputes approximately two to three percent of the total bill based on bill inaccuracies. In Pennsylvania, the monthly disputes average approximately twenty percent of the total bill. Z-Tel does not submit superfluous disputes, as demonstrated by Verizon's agreement that 100% of the disputed amount in 2000 was correct. In addition to the fiscal uncertainty caused by the problems with the Pennsylvania bill, Z-Tel is required to expend more resources to document and pursue disputes in Pennsylvania than it is in other states. Z-Tel estimates that it dedicates one full time equivalent week per month to the reconciliation of the Pennsylvania bill. For New York, Massachusetts, and Texas, one full time equivalent spends no more than two days per month per state on bill reconciliation, even though Z-Tel's customer base in New York dwarfs that in Pennsylvania.

9. When Z-Tel was notified that Verizon was willing to allow CLECs to select the BOS/BDT format as the bill of record, Z-Tel selected that option. For the first time, Z-Tel did not receive a paper bill for the May 28 bill cycle. Therefore, it is not clear whether or not the paper bill would have contained the same errors. However, Verizon's July 3, 2001 *ex parte* indicated that PricewaterhouseCoopers confirmed that minimal adjustments were necessary to make the total amount due shown on the BOS/BDT equal that shown on the paper bill. Therefore, it is possible that the paper bill would have contained the same erroneous charges and credits contained in the BOS/BDT.<sup>4</sup>

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<sup>3</sup> McLean/Wierzbicki/Webster Declaration, para. 152.

<sup>4</sup> It is also possible that the USOC-level detail contained in the paper bills does not tie at all to what is shown on the BOS/BDT. It appears that the auditor merely verified the adjustments necessary to make the totals match, rather than examining account- or USOC-level detail. This is understandable, as an audit of the paper bills would be an arduous and expensive process, as the CLEC community has made clear.

### III. KPMG's Billing Test Did Not Reflect the CLEC Experience

10. Verizon's application relies heavily upon KPMG's finding that its paper bills are accurate. Witnesses McLean, Wierzbicki, and Webster state no less than five times that KPMG was satisfied as to the accuracy of the paper bills.<sup>5</sup> Unfortunately, as Verizon's witness Geller aptly pointed out during the Pennsylvania en banc hearings, "KPMG is not a normal CLEC as we know. They were a third-party company that was used to attest to the OSS processes within Verizon."<sup>6</sup> KPMG's experience during the test, as described in its final report, is inconsistent with the experience of Z-Tel and the other CLECs who testified in the Pennsylvania 271 proceeding.

11. KPMG tested 110 UNE-P lines in the course of its evaluation.<sup>7</sup> Mr. Geller testified that these lines generated at least two boxes of wholesale bills each month, which by the latter part of the trial Verizon was hand-delivering to KPMG to provide adequate time for KPMG's review.<sup>8</sup> By contrast, Z-Tel's most recent paper bill, for the April 28 billing cycle, contained 22 boxes and an estimated 280,000 pages. While KPMG was getting paid to analyze its 110 accounts, and needed expedited delivery to do so in a timely manner, it would be virtually impossible for Z-Tel and other CLECs with an actual customer base to muster the resources necessary to audit the volume of paper bills that they receive. During the April 25 en banc hearing, AT&T and WorldCom testified that they were not able to audit their paper bills.<sup>9</sup>

12. During the time period that Z-Tel received the paper bill as the official bill of record (May 2000 through April 2001), Z-Tel performed a cursory review of the paper bills. Specifically, Z-Tel reviewed the summary section of that bill to determine the total amount that Verizon was asking Z-Tel to pay, and reviewed a sample of the individual paper bills to identify possible sources of error. Z-Tel paid its bill based on its own analysis of what Z-Tel owed Verizon, based on the number of subscribers and the unbundled network elements ordered for each subscriber. In January, 2001, Verizon agreed to credit Z-Tel with 100% of the amount it had disputed for the period of May

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<sup>5</sup> McLean/Wierzbicki/Webster Declaration, paras. 132, 134, 135, 143, 146.

<sup>6</sup> Transcript of April 25, 2001 *En Banc* Hearing, pg. 109 lines 8-10.

<sup>7</sup> March 7 Transcript, pg. 108, lines 20-23, pg. 127 lines 9-13.

<sup>8</sup> March 7 Transcript, pg. 108, lines 9-18.

<sup>9</sup> April 25 Transcript, pg. 137, line 2 – pg. 138, line 7.

2000 through December 2000. This dispute was based entirely on the contents of the paper bill, and encompassed incorrect USOCs, incorrect rates for monthly recurring charges, incorrect rates for usage, incorrect billing of taxes, and incorrect billing of interexchange carrier charges. Mr. Geller agreed that “there were numerous problems that were identified by Z-Tel”, including taxes and retail billing on Z-Tel’s account.<sup>10</sup>

13. According to KPMG’s final report, the firm tested UNE-P bills in both hard copy and BOS/BDT format during the period April 1999 through September 2000.<sup>11</sup> It is unclear exactly how KPMG tested the BOS/BDT. Verizon’s witness Geller testified that Verizon only made the BOS/BDT available to the CLEC community in January of 2000. He added that Verizon became aware in April of 2000 that the BOS/BDT “would not meet the needs of the CLEC community” and that “the content was not totally accurate and should not be used as a billing medium until all problems were resolved.” In fact, Verizon suspended its BDT because of problems it experienced with the April 2000 release.<sup>12</sup> Mr. Geller stated that Verizon informed the CLECs in October of 2000 “with our release in October, that we felt that we had a commercially viable product for the CLECs to use.”<sup>13</sup> Thus, it was not until *after the close of the KPMG testing period* that Verizon itself believed its BOS/BDT was adequate to meet the needs of the CLEC community.

14. Mr. Geller also testified that when KPMG requested BOS/BDT in the course of their setup as a test CLEC, Verizon informed KPMG that the BOS/BDT “was not of a commercial grade as of yet. They still said they wanted to look at it. So because it was a test CLEC condition, we were obligated to send it to them.”<sup>14</sup>

15. Because Z-Tel was not active in the Pennsylvania market for most of the duration of the KPMG test, Z-Tel did not participate in the test. It is therefore difficult to speculate on why KPMG received what appear to be nearly perfect UNE-P bills during the same timeframe that Z-Tel and other CLECs were receiving bills that even Verizon admits were inaccurate. Nor is it necessary. As KPMG did not review any of the bills received by CLECs in the Pennsylvania market, KPMG could only draw conclusions

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<sup>10</sup> March 7 Transcript, pg. 105, line 20 – pg. 106, line 20.

<sup>11</sup> KPMG Final Report, pg. 563 and Table 9-1.

<sup>12</sup> March 7 Transcript, Technical Conference, pg. 75, lines 16-23.

<sup>13</sup> March 7 Transcript, pg. 76, lines 11-16.

based on the bills that it received. The fact that Verizon may or may not have been able to produce an accurate bill for its own consultant for 110 test lines should be of little import when compared to the real-world experience of the CLEC community. Similarly, Verizon's tortured logic that because PricewaterhouseCoopers verified that the BOS/BDT almost matched the paper bill, and KPMG verified that the paper bill was accurate, then the BOS/BDT must be accurate, cannot be given serious consideration by the Commission.<sup>15</sup>

#### IV. The Billing Metrics Do Not Capture the Billing Problems

16. The Pennsylvania Public Utility Commission concluded that the Pennsylvania markets would not be fully open to competition unless Verizon was subject to increased liability under its performance assurance plan for each of the billing metrics, and unless the billing metrics applied to the electronic billing as of July 1. The PUC believed that these measures would incent the timely and effective implementation of modifications to the BOS/BDT modifications.<sup>16</sup> Z-Tel respectfully disagrees with the PUC's conclusion that these measures will bring about improvements in the quality of the electronic bill.

17. Verizon has acknowledged problems with its paper bill throughout 2000.<sup>17</sup> Nevertheless, the BI-3 billing accuracy metric showed continuous, excellent performance.<sup>18</sup> Indeed, Verizon has not paid any money for any missed billing metrics.<sup>19</sup>

18. The current design of the billing accuracy metric ensures that Verizon will never be subject to any performance penalty. The accuracy metric is defined as a count of dollars adjusted for billing errors, divided by the total dollars billed. The problem with this metric is that any adjustments for billing errors occur months after the actual billing error occurs, and therefore months after Verizon has reported its metric for the month in

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<sup>14</sup> March 7 Transcript, pg. 102, lines 20-25.

<sup>15</sup> McLean/Wierzbicki/Webster Declaration, para. 143.

<sup>16</sup> June 6, 2001 Secretarial Letter to Julia Conover, Esq.

<sup>17</sup> April 25 Transcript, pg. 128, lines 5-6: "Historically, we had had problems in delivering an accurate paper bill, that's correct, sir," pg. 130, line 25 – pg.131, line 2: "They were removed over the course of the trial which took place in 2000 and they are nonexistent today, in my opinion."

<sup>18</sup> March 7 Transcript, pg. 71, lines 19-25; *see also* Verizon's June 27 *ex parte* showing cumulative performance reports.

<sup>19</sup> April 25, Transcript, pg. 107, line 25 – pg. 108, line 5.

which the error occurred. For example, Verizon and Z-Tel resolved in January of 2001, all bill disputes for the months of May, 2000 through December, 2000. By the time Z-Tel actually received this credit in February 2001, Verizon had long since closed the metric reporting cycle for the May through December 2000 timeframe. The inaccuracies contained on those bills, and acknowledged by Verizon, were not and could not be captured by the metrics for those months.

19. Verizon has ten business days from the date of the bill to deliver the bill to the CLEC. The CLEC then has a minimum of twenty days to review the bill and submit a dispute. Verizon is not even required to respond to the dispute within a specific timeframe. Even if both Verizon and the CLEC act in good faith to identify and resolve billing errors promptly, there is virtually no chance that the adjustment will be made in time for Verizon to report that adjustment in its monthly metrics.<sup>20</sup> The flaw in this most important of measures ensures that the additional dollars placed at risk by Verizon at the direction of the Pennsylvania Commission will never incent improved performance.

#### V. An Accurate, Reliable Electronic Bill is the Only Viable Option for CLECs

20. According to the declaration of Verizon's witnesses McLean, Wierzbicki, and Webster, changes were made in March, April, May, and June to the BOS/BDT.<sup>21</sup> As Z-Tel has not received a bill generated after the June changes, Z-Tel is not in a position to comment on whether those changes have resolved all of the problems associated with the BOS/BDT. Verizon's witness Geller testified in the Pennsylvania 271 proceeding that "Verizon is employing a team, two districts of people, as a matter of fact, to manually review the BDT upon generation, review it for out-of-balance conditions, and make manual work-arounds... to put the bill in balance before we send the BDT out to the customer base."<sup>22</sup> According to the McLean affidavit, Verizon intends to continue the manual review and adjustment process until it has confirmed that the software fixes it

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<sup>20</sup> Metric BI-4, Daily Usage Feed Accuracy, acknowledges a similar lag in the timeframe required for CLECs to report DUF errors, by incorporating a one-month delayed reporting basis (*i.e.*, measurements for January are reported in March). There is no such lag with the Billing Accuracy metric. It would be difficult to build in a long enough lag to solve the inherent problems in the Billing Accuracy metric, as there is no specific timeframe in which Verizon is required to resolve billing disputes.

<sup>21</sup> McLean/Wierzbicki/Webster Declaration, para. 134.

<sup>22</sup> April 25 Transcript, pg. 111, lines 8-13.

implemented were effective in providing balanced BOS/BDTs.<sup>23</sup> Thus, Z-Tel and presumably the rest of the CLEC community have never received a fully automated electronic bill, and will not receive such a bill while the FCC is considering this case.

21. As AT&T and WorldCom testified in the Pennsylvania en banc hearing, an electronic bill is vital for a CLEC to do any type of audit of the wholesale bill.<sup>24</sup> In states where Z-Tel receives an electronic bill, Z-Tel is able to compare the telephone numbers on the wholesale bill to those in its retail billing system, compare the rates charged against the rates contained in tariffs or interconnection agreements, compare the universal service order codes on the bill with those submitted on the original local service request, identify cases of duplicate billing, and identify cases where the port count does not equal the loop count.

22. If Z-Tel were to attempt the type of audit described above using Verizon's paper bill, Z-Tel would first have to enter every pertinent piece of information from each customer's individual bill into a spreadsheet or database. Under Z-Tel's interconnection agreement with Verizon, bills are payable on the later of the due date shown on the bill (generally one month from the bill date) or twenty days from the date the bill is received by Z-Tel. A company the size of Z-Tel simply does not have the resources to perform this in the timeframe that is required. Further, the margin between Z-Tel's wholesale costs and the retail rate we are able to charge for our product in Pennsylvania would evaporate if we had to incur this additional expense.

23. This concludes my declaration.

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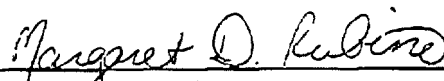
<sup>23</sup> McLean/Wierzbicki/Webster Declaration, para. 142.

<sup>24</sup> April 25 Transcript, pg. 137, line 9 – pg. 138, line 18.



I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 11, 2001

  
Margaret D. Rubino

## Attachment A

Verizon Letters Dated April 28, 2001 and May 28, 2001.



July 11, 2001

Z-tel Network Services, Inc.  
ATTN: Network Administration Group  
601 South Harbour Island Boulevard  
Suite 220  
Tampa, FL 33602

RE: BAN #: 717-119-1038  
BILL PERIOD: April 28, 2001

The following is in reference to your April 28<sup>th</sup> Billing Data Tape (BDT) for Billing Account Number 717-119-1038. Please be advised that charges totaling [REDACTED] identified as "Resale/Retail Usage", have been placed under investigation by Verizon and should be deducted from your total amount due.

It is not necessary to submit a claim for these charges. Once our investigation is complete, we will advise you. In the meantime, should you have any questions, please contact your claims representative.



July 11, 2001

Z-tel Network Services, Inc.  
ATTN: Network Administration Group  
601 South Harbour Island Boulevard  
Suite 220  
Tampa, FL 33602

RE: BAN #: 717-119-1038  
BILL PERIOD: May 28, 2001

The following is in reference to your May 28<sup>th</sup> Billing Data Tape (BDT) for Billing Account Number 717-119-1038. Please be advised that charges totaling [REDACTED] identified as "Resale/Retail Usage", have been placed under investigation by Verizon and should be deducted from your total amount due.

It is not necessary to submit a claim for these charges. Once our investigation is complete, we will advise you. In the meantime, should you have any questions, please contact your claims representative.

## Attachment B

A sample of incorrect universal service order codes (“USOCs”) from  
Z-Tel’s May BOS/BDT bills.

USOC	DESCRIPTION	DISPUTE REASON
1FR	Unlimited calling to	Not available w/UNE-P
1MR	Local Calling with	Not available w/UNE-P
1SR	Metropolitan Area	Not available w/UNE-P
1WR	Metropolitan Area	Not available w/UNE-P
2WT	'DID CO tk ckt pk-Dim 2000	Not available w/UNE-P
9ZR11	Federal Line Cost- Primary	Not available w/UNE-P
9ZRM	Federal Line Cost- Non Primary	Not available w/UNE-P
ADAC3	Infospeed 640K	Not available w/UNE-P
C6P	The Big Deal	Not available w/UNE-P
CLT	Listings Addtl Business	Included w/port
D7TL1	Do Not Disturb Service	Not available w/UNE-P
DRS1X	Distinctive Ring-Residence - 1st Number	Not available w/UNE-P
DTLRT	Dial Tone Line -Residence -Touchtone	Included w/port
E5E	Call forwarding busy line	Included w/port
ECL	50b scanner line circuit	Included w/port
ESC	3 way calling	Included w/port
ESF	'Speed Dialing 30	Included w/port
ESL	Speed Dialing 8	Included w/port
ESM	Call forwarding	Included w/port
ESX	Call waiting service	Included w/port
EVB	Call forwarding-busy line	Included w/port
EVD	Call forwarding-Don't Ans	Included w/port
EWY38	Call Manager	Not available w/UNE-P
FRM	Ultra Forward Service	Included w/port
GSD	Guardian plan	Not available w/UNE-P
HB11L	Foreign exchange channel	Not available w/UNE-P
HB21L	'Foreign exchange channel	Not available w/UNE-P
HWH	Unlmted callg to home exch	Not available w/UNE-P
LBJ1L	'Voice grade local channel for off premises ext	Not available w/UNE-P
LNKL2	Lifeline 150 Service	Not available w/UNE-P
LNKLX	Lifeline Service	Not available w/UNE-P
MBB1S	Home Voice Mail-standard mlbx	Not available w/UNE-P
MBB1X	Home Voice Mail-standard mlbx	Not available w/UNE-P
NDF	Caller ID with Name	Included w/port
NDT	Direct iNward Dialing Service Term	Not available w/UNE-P
NLT	Listing on directory	Included w/port
NSK	Verizon - Priority Call	Not available w/UNE-P
NSQ	Repeat Dialing	Included w/port
NSS	*69	Included w/port
NSY	Verizon - Call Block	Included w/port
NVD	Dialog sta unit svg 4 codes ea	Not available w/UNE-P
OC4	Call Gate (sm)	Not available w/UNE-P
OLA1X	SoundDeal Plus	Not available w/UNE-P
OLV2X	SoundDeal(sm)	Not available w/UNE-P
P9GUX	Residence Pager / Touchtone	Not available w/UNE-P
PGOQP	Local Package-Metropolitan-Premium	Not available w/UNE-P
PGOQS	Local Package, Metropolitan-Standard Option	Not available w/UNE-P
PGORP	Local Package-Premium Option	Not available w/UNE-P
PGORS	Local Package-Standard Option	Not available w/UNE-P
POR1X	LNP Cost Recovery End User Surcharge Business-Line	
POR2X	LNP Cost Recovery End User Surcharge Business-Line	

USOC	DESCRIPTION	DISPUTE REASON
QURBS	Federal Line Cost	Not available w/UNE-P
QURC4	Federal Universal Service Fund Surcharge	Exemption
QURC5	Federal Universal Service Fund Surcharge	Exemption
R2HX#	Rebundled Basic Loop	Unknown Charges
R2HX?	Rebundled Basic Loop	Unknown Charges
R2HXK	Rebundled Basic Loop	Unknown Charges
R2HXN	Rebundled Basic Loop	Unknown Charges
R2HXR	Rebundled Basic Loop	Unknown Charges
R2HXX	Rebundled Basic Loop	Unknown Charges
RBM	Unbundled Port - Business	Incorrect Rate
RRM	Unbundled Port - Residential	Incorrect Rate
SEH1X	Extended Area Surcharge	Not available w/UNE-P
THX	'Unlmtd callg to home exch                      plus one toll exchar	Not available w/UNE-P
VWSXX	Voice Dialing	Not available w/UNE-P
WHO	Call Intercept	Not available w/UNE-P
WMR	Maintenance agreement for	Not available w/UNE-P
WR1	Toll Free BAS	Not available w/UNE-P
ZZZ92		Unknown Charges

# **CERTIFICATE OF SERVICE**

I, Charles M. Hines III, hereby certify that a true and correct copy of the foregoing **"Comments of Z-Tel; CC Docket No. 01-138"** was delivered this 11<sup>th</sup> day of July, 2001 to the individuals on the following list:

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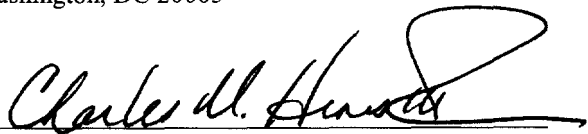
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